



6560 –50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9747-5]

Reissuance of the NPDES General Permits for Oil and Gas Exploration Facilities on the Outer Continental Shelf and Contiguous State Waters in the Beaufort Sea and on the Outer Continental Shelf in the Chukchi Sea, Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of final NPDES general permits.

SUMMARY: The Director, Office of Water and Watersheds, EPA Region 10, is publishing this notice of availability of the final National Pollutant Discharge Elimination System (NPDES) General Permits for Oil and Gas Exploration Facilities on the Outer Continental Shelf and Contiguous State Waters in the Beaufort Sea (Permit No. AKG282100) and on the Outer Continental Shelf in the Chukchi Sea (Permit No. AKG288100). The Beaufort and Chukchi general permits authorize thirteen types of discharges from facilities engaged in field exploration and exploratory drilling activities under the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR Part 425, Subpart A), as authorized by Section 402 of the Clean Water Act (CWA or “the Act”), 33 U.S.C. 1342. The Beaufort and Chukchi general permits contain effluent limitations and requirements that ensure the discharges will not cause unreasonable degradation of the marine environment, as required by Section 403(c) of the Clean Water Act (i.e. the Ocean Discharge Criteria), 33 U.S.C. 1343(c).

DATES: The issuance date of the Beaufort and Chukchi NPDES general permits is [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the date of publication of this

notice. The Beaufort and Chukchi general permits shall become effective on [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Operators must submit a new Notice of Intent (NOI) to discharge within 120 days prior to initiation of discharges. Operators that have administratively extended coverage under the previous general permit must submit new NOIs that comply with the submission requirements of the Beaufort and Chukchi general permits.

ADDRESSES: Copies of the Beaufort and Chukchi general permits, the Response to Comments document, and the Ocean Discharge Criteria Evaluations may be found on the Region 10 website at: <http://yosemite.epa.gov/r10/water.nsf/npdes+public+notices/arctic-gp-pn-2012>. Copies of the documents are available upon request. Written requests for copies of the documents may be submitted to EPA, Region 10, 1200 Sixth Avenue, Suite 900, OWW-130, Seattle, WA 98101. Electronic requests may be sent to: washington.audrey@epa.gov. Requests by telephone may be made to Audrey Washington at (206) 553-0523.

FOR FURTHER INFORMATION CONTACT: Erin Seyfried at (206) 553-1448, seyfried.erin@epa.gov.

SUPPLEMENTARY INFORMATION: On June 26, 2011, the previous NPDES general permit, the Arctic general permit, No. AKG280000, expired. EPA is replacing the Arctic general permit with two general permits, the Beaufort and Chukchi general permits, renumbered as AKG282100 and AKG288100, respectively. EPA solicited public comments on the draft Beaufort and Chukchi general permits in the Federal Register on January 31, 2012. Notices of the draft general permits were also published in the Anchorage Daily News, the Arctic Sounder, and Petroleum News on January 30, 2012. Public meetings and hearings were held in communities on the North Slope and in Anchorage the week of March 12-16, 2012.

The comment period closed on March 30, 2012. Changes have been made to the general permits in response to comments received from tribal, state, and local governments, the Alaska Eskimo Whaling Commission, environmental advocacy groups, industry representatives, trade organizations, and individual citizens. All comments, along with EPA's responses, are summarized in the Response to Comments document.

State Certification of Beaufort General Permit. Pursuant to Section 401 of the Clean Water Act, 33 U.S.C. 1341, on October 9, 2012, the State of Alaska Department of Environmental Conservation (DEC) certified that the conditions of the Beaufort general permit comply with State Water Quality Standards (Alaska Administrative Code 18 AAC 15, 18 AAC 70, and 18 AAC 72), including the State's antidegradation policy.

Oil Spill Requirements. Section 311 of the Act, 33 U.S.C. 1321, prohibits the discharge of oil and hazardous materials in harmful quantities. Discharges authorized under the Beaufort and Chukchi general permits are excluded from the provisions of CWA Section 311, 33 U.S.C. 1321. However, the Beaufort and Chukchi general permits will not preclude the institution of legal action, or relieve the permittees from any responsibilities, liabilities, or penalties for other unauthorized discharges of oil and hazardous materials, which are covered by Section 311.

Endangered Species Act. Section 7 of the Endangered Species Act (ESA), 16 U.S.C. 1531-1544, requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) if their actions have the potential to either beneficially or adversely affect any threatened or endangered species, or designated critical habitat. On March 30, 2012 and April 11, 2012, EPA received concurrences from USFWS and NMFS, respectively, that exploration discharges authorized by the general permits are not likely to adversely affect endangered, threatened, and candidate and proposed species and

designated critical habitat areas.

Essential Fish Habitat. The Magnuson-Stevens Fishery Conservation and Management Act requires EPA to consult with NMFS when a proposed discharge has the potential to adversely affect an Essential Fish Habitat (EFH). EPA's EFH assessments conclude that the discharges authorized by the Beaufort and Chukchi general permits will not adversely affect EFH or those species regulated under a Federal Fisheries Management Plan.

Coastal Zone Management Act. As of July 1, 2011, there is no longer a Coastal Zone Management Act (CZMA) program in Alaska. Consequently, federal agencies are no longer required to provide the State of Alaska with CZMA consistency determinations.

Paperwork Reduction Act. The information collection requirements of the Beaufort and Chukchi general permits are consistent with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

Regulatory Flexibility Act. 5 U.S.C. 601 et seq., requires that EPA prepare a regulatory flexibility analysis on rules subject to the requirements of 5 U.S.C. 553(b) that have a significant impact on a substantial number of small entities. However, NPDES general permits are not "rules" and are therefore not subject to the Regulatory Flexibility Act (RFA).

Unfunded Mandates Reform Act. Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104-4, generally requires federal agencies to assess the effects of their "regulatory actions" (defined to be the same as "rules" subject to the RFA) on tribal, state, and local governments and the private sector. However, the Beaufort and Chukchi general permits are not "rules" subject to the RFA, and are therefore not subject to the UMRA.

Appeal of Permit. Any interested person may appeal the Beaufort and Chukchi general permits in the Federal Court of Appeals in accordance with section 509(b)(1) of the Clean Water Act,

33 U.S.C. 1369(b)(1). This appeal must be filed within 120 days of the permit issuance date. Persons affected by the permit may not challenge the conditions of the permit in further EPA proceedings (see 40 CFR 124.19). Instead, they may either challenge the permits in court or apply for an individual NPDES permit.

Authority: This action is taken under the authority of Section 402 of the Clean Water Act, 33 U.S.C. 1342. I hereby provide public notice of the final permit action in accordance with 40 CFR 124.15(b).

Dated: October 23, 2012

Christine Psyk
Associate Director,
Office of Water and Watersheds,
Region 10.

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